

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-v-

SURINDER CHEEMA,
a/k/a "Tana,"

Defendant.

S1 22 Cr. 618 (JPC)

ORDER

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JOHN P. CRONAN, United States District Judge:

On October 19, 2023, Defendant Surinder Cheema filed a pretrial motion seeking suppression of various evidence and for an *in camera* inquiry concerning a confidential source. Dkt. 93 ("Motion to Suppress"). Cheema also provided to the Court two exhibits to his Motion to Suppress which were not publicly filed, presumably because they contain information considered sensitive by the Government. On November 2, 2023, the Government filed its brief in opposition to the Motion to Suppress, which contained various redactions. Dkt. 100. In addition, the Government submitted to the Court an unredacted version of its opposition brief, as well as various exhibits in support of its opposition, all of which also were not publicly filed. It does not appear obvious to the Court that the entirety of the materials not publicly filed necessarily fall within the scope of "Redactions Not Requiring Court Approval" under 9.A of the undersigned's Individual Rules and Practices in Criminal Cases.

By November 20, 2023, the Government is ordered to submit a letter to the Court addressing why the requested sealing and redactions are appropriate, including whether sealing is appropriate for the two exhibits submitted by Cheema that were not publicly filed. The Government is directed to 9.A-C of the undersigned's Individual Rules and Practices in Criminal Cases. In its letter, the Government shall address *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-26 (2d Cir.

2006) and any other controlling authority, as well as whether any of these materials can be publicly filed as redacted versions. If Cheema wishes to file a letter on this topic, he may do so by November 27, 2023.

In addition, Cheema's reply brief appears to present certain new factual assertions and arguments regarding his entry into the United States on September 9, 2022, including that law enforcement conducted a search under the Fourth Amendment when officers forced him to open his phone so they could take a picture of its International Mobile Equipment Identity number. *See* Dkt. 101 at 7-8. The Government may file a sur-reply addressing these arguments by November 22, 2023.

Finally, Exhibit C to the Government's opposition, *see* Dkt. 100 at 2 n.2, which the Government has provided to the Court but has not publicly filed, consists of only an Agent Affidavit, but does not contain any Application or Warrant and Order that correspond to the Agent Affidavit. By November 20, 2023, the Government shall also provide the Court and Cheema's counsel with the Application and the Warrant and Order, in the event they exist. If the Government requests that these materials be filed under seal or in redacted form, it shall address them as well in the aforementioned letter.

SO ORDERED.

Dated: November 16, 2023
New York, New York



JOHN P. CRONAN
United States District Judge